

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

In the matter of)
)
)

ACCESS TO PROPERTY OWNED BY)
PENNSA CORPORATION;)

Pennsa Corporation,)

Respondent .)
)
)

ADMINISTRATIVE ORDER
DIRECTING COMPLIANCE
WITH REQUEST FOR ACCESS

Proceeding Pursuant to Section)
104(e) (5) of the)
Comprehensive Environmental,)
Response, Compensation and)
Liability Act of 1980, as amended)
by the Superfund Amendments and)
Reauthorization Act of 1986,)
42 U.S.C. §9604(e) (5).)

INDEX NO.
CERCLA-02-2000-2009

JURISDICTION

1. The following Administrative Order is issued to Pennsa Corporation ("Respondent"), by the United States Environmental Protection Agency ("EPA") pursuant to the authority vested in the President of the United States by Section 104(e) (5) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, ("CERCLA"), 42 U.S.C. §9604(e) (5), which authority was delegated to the Administrator of the EPA by Executive Order 12580, dated January 23, 1987, and duly redelegated to the Regional Administrator of EPA, Region II on April 17, 1987 and further redelegated to the Director of the Emergency and Remedial Response Division of EPA, Region II on October 29, 1998.

PARTIES BOUND

2. This Order shall apply to and be binding upon Respondent and each and every agent of Respondent's and upon all other persons and entities who are under the direct or indirect control of the Respondent.



FINDINGS OF FACT AND CONCLUSIONS OF LAW

3. The Puchack Well Field Site ("PWF" or "Site") is located in Pennsauken Township, Camden County, New Jersey. In general, the PWF is bordered on the northeast by the Betsy Ross Bridge and Puchack Creek; on the southwest by the Pennsylvania Reading Seashore Lines; on the northwest by the Delaware River; and on the southeast by private homes. A map showing the PWF is attached as Attachment #1.
4. The Puchack Well Field ("Well Field") is owned and operated by the City of Camden, New Jersey. Six public supply wells exist at the Well Field, namely, Wells #1, #2, #3, #5, #6 and #7.¹
5. Groundwater contamination in the Well Field was detected by the City of Camden in the early 1970's when sampling of Well #6 revealed the presence of trichloroethene ("TCE"), 1,2-dichloroethane ("1,2DCA"), tetrachloroethene ("PCE"), and chromium.
6. The City of Camden removed Well #6 from service in 1975 after water samples continued to indicate the presence of chromium in excess of its federal and state maximum contaminant level ("MCL") of 0.05 part per million ("ppm").
7. In 1982 the City of Camden sampled groundwater from Well #5 and found it to contain chromium at levels above the Safe Drinking Water Act Maximum Contaminant Level of 0.05 ppm. The City of Camden then removed Well #5 from service.
8. Subsequent sampling lead to the closure of Wells #2, #3 and #7. Well #1 remained in use through early 1998 in order to prevent the migration of hazardous substances to other public supply well fields that are in close proximity to the PWF.
9. From 1981 through 1989 the City of Camden, as well as other entities, sampled ground water at the Well Field. The results indicate the ground water is contaminated with various hazardous substances at concentrations that exceed their applicable MCL. Hazardous substances present in the Well Field include chromium, selenium, mercury, TCE, PCE, trans-1,2-dichloroethane, vinyl chloride, 1,2, DCA, 1,1-dichloroethene, and benzene.
10. On March 6 and 7, 1996, the New Jersey Department of Environmental Protection ("NJDEP") collected groundwater samples

¹A seventh well, Well #4, was destroyed during construction of the Betsy Ross Bridge.

from Puchack Wells #1, #2, #3, #5, #6 and #7. Chromium and mercury were detected in all of the samples collected. Chromium was detected at concentrations of more than one hundred times its federal and state MCL. Other hazardous substances, including TCE, were detected at concentrations exceeding their MCL at Puchack Wells #1, #2, #3, #6 and #7.

11. On September 25, 1997, the State of New Jersey requested that EPA place the PWF onto the National Priorities List ("NPL") of Superfund Sites.

12. EPA has started a Remedial Investigation ("RI") to characterize the Site for the purpose of developing and evaluating remedial alternatives. The RI includes the gathering of information needed to delineate the horizontal and vertical extent of the contamination present in the groundwater at the Site and to identify likely pollutant sources contributing to the groundwater contamination at the Site.

13. Respondent owns the property located at 1435 Melrose Highway, and identified as Block 2102, Lot 3 in the municipal tax maps of Pennsauken Township, Camden County, New Jersey ("Pen-Property"). Garden State Motors, Inc. operated a business on the property that involved the reconditioning of automotive engines. Soil samples taken from the Pen-Property in 1987 and 1988 revealed the presence of chromium, petroleum hydrocarbons and lead. Ground water samples from monitoring wells at the Pen-Property found 1,1-dichloroethene, 1,1,1-trichloroethane and trichloroethane to be present. Groundwater samples collected by the U.S. Geological Survey in 1999 from monitoring wells on the Pen-Property indicate that TCE is present at concentrations greater than three hundred times its applicable MCL.

14. On July 20, 1999 EPA sent a request for access letter to Pennsa Corporation's attorney requesting access to the Pen-Property for the purpose of conducting activities consistent with and pursuant to the RI. (See Attachment #2). Mr. Fajardo of EPA then placed a phone call to Respondent's attorney's office. As instructed by Respondent's attorney, EPA then sent a facsimile letter to Respondent's attorney requesting access to the Pen-Property. (See Attachment #3).

15. As of the date of issuance of this Administrative Order, EPA has not received a response to its request for access letter and has not received access to the Pen-Property.

16. On October 31, 1991, the NJDEP issued the first of four "Directive And Notice To Insurers." The property named herein was listed in the four directives as a possible source of the groundwater contamination at the PWF.

17. Respondent is a present "owner", as that term is defined in Section 101(20)(A) of CERCLA, 42 U.S.C. §9601(20)(A).

18. Respondent is a "person", as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. §9601(21).

19. The Site and the Pen-Property are both a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

20. For purposes of 104(e)(3) of CERCLA, 42 U.S.C. §9604(e)(3), the Pen-Property constitutes a facility, establishment, or other place or property:

- (A) where hazardous substances or pollutants or contaminants may be or have been generated, stored, treated, disposed of, or transported from;
- (B) from which or to which hazardous substances or pollutants or contaminants have been or may have been released;
- (C) where such release is or may be threatened;
- (D) where entry is needed to determine the need for response or the appropriate response or to carry out a response action under CERCLA.

21. EPA is authorized to issue this Administrative Order directing compliance with its request for access, pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. §9604(e)(5).

DETERMINATION

22. Based on the FINDINGS and CONCLUSIONS set forth above and the entire administrative record, EPA has determined that there is a reasonable basis to believe (i) that there may be a release or a threat of release of a hazardous substance or pollutant or contaminant at or from the Site and the Pen-Property, within the meaning of Section 104(e) of CERCLA, 42 U.S.C. §9604(e); (ii) that access to the Pen-Property is needed in order for EPA to take necessary response actions; and (iii) that EPA's requests for such access have been denied.

23. Pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. §9604(e)(5), EPA is authorized to issue this Administrative Order directing compliance with its request for access.

ORDER

24. Based upon the foregoing FINDINGS, CONCLUSIONS, AND DETERMINATIONS, IT IS HEREBY ORDERED that:

PENNSA CORPORATION shall afford EPA and its officers, employees, agents, and contractors, including but not limited to, contractors and subcontractors and representatives of NJDEP, full and unrestricted access to the Pen-Property from the effective date of this Order and for such time as is reasonably necessary to complete the following response activities: remedial investigation, including, but not limited to, the collection of samples and other studies to determine the scope and extent of contamination which may exist in the soil, subsurface soil, surface water, and groundwater at the Pen-Property.

25. Respondent and any and all employees, agents, contractors and all other persons under the direct or indirect control of the Respondent shall refrain from each and every one of the following:

- (A) Interfering with or preventing in any manner EPA, its duly authorized representatives and NJDEP from entering onto the Pen-Property to perform the response activities specified above; and
- (B) Disrupting, impeding, or delaying in any manner the response activities of EPA and NJDEP who enter the Pen-Property or who are present on the Pen-Property at any time to perform or observe response actions.

26. In the event of any conveyance by Respondent, or Respondent's agents, heirs, successors and assigns, of an interest in the Pen-Property, Respondent or Respondent's agents, heirs, successors and assigns shall convey the interest so as to ensure continued access by EPA and NJDEP for the purpose of carrying out the activities pursuant to this Order. Any such conveyance shall restrict the use of the Pen-Property so that the use will not interfere with activities undertaken pursuant to this Order. Respondent, or Respondent's agents, heirs, successors and assigns shall notify EPA by certified mail, return receipt requested, at least thirty (30) days before any conveyance of any interest in the Pen-Property and prior to the transfer shall notify the other parties involved in the conveyance of the provisions of this Order.

ACCESS TO ADMINISTRATIVE RECORD

27. The Administrative Record supporting the above Findings of Fact, Conclusions of Law, and Determination is available for review on weekdays between the hours of 9:00 a.m. and 5:00 p.m. in the EPA - Region II office, 290 Broadway, 18th Floor, New York, New York. If you wish to view the Administrative Record at the EPA office please contact Mr. Juan Fajardo of the Office of

Regional Counsel, in advance, at (212)637-3132 to schedule arrangements.

OPPORTUNITY TO CONFER AND EFFECTIVE
DATE OF ADMINISTRATIVE ORDER

28. Within five (5) days of receipt of this Administrative Order, the Respondent may request to confer with EPA to discuss this Administrative Order. At any such conference held pursuant to Respondent's request, Respondent may appear by an attorney or other representative. Such conference shall be held at EPA's Region II Office no later than five (5) business days from the date of request. Respondent should contact Mr. Juan Fajardo of the Office of Regional Counsel to arrange such a conference. A verbal request for a conference shall be confirmed in writing and sent to Mr. Fajardo at the address specified in Paragraph 31.

29. This Administrative Order shall become effective six (6) days following its receipt by Respondent unless, prior thereto, Respondent has requested a conference. After the conference, if EPA determines that no modification to the Administrative Order is necessary, then this Administrative Order shall become effective immediately upon notification by EPA of such determination. If modification of the Administrative Order is determined by EPA to be necessary, the Administrative Order shall become effective upon notification by EPA.

30. The purpose and scope of the conference shall be limited solely to issues involving the issuance of this Administrative Order by EPA and the extent to which Respondent intends to comply with this Administrative Order. Issues pertaining to the resolution of potential liability will not be addressed. This conference shall not be an evidentiary hearing and no official stenographic record of the conference will be made.

NOTICE OF INTENTION TO COMPLY

31. On or before two (2) days after the effective date of this Administrative Order, Respondent shall provide, and EPA must receive, written certified return receipt requested notice stating whether Respondent intends to comply with the terms hereof. Such written notice shall be sent to, Mr. Juan Fajardo, Office of Regional Counsel, U.S. Environmental Protection Agency, Region II, 290 Broadway- 17th Floor, New York, New York 10007. In the event that Respondent fails to provide such notice, Respondent shall be deemed to have not complied with the terms of this Administrative Order.

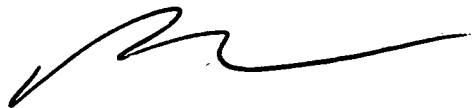
PENALTIES FOR NONCOMPLIANCE

32. Respondent is hereby advised that, pursuant to Section 104(e) (5) of CERCLA, 42 U.S.C. §9604 (e) (5), as amended by the

Debt Collection and Improvement Act of 1996, 31 U.S.C. § 3701 et seq., a court may assess civil penalties of up to \$27,500.00 per day for each day that Respondent fails to comply with this Administrative Order or any part hereof.

IT IS SO ORDERED:

United States Environmental Protection Agency



Richard L. Caspe, Director
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
Region II

2/22/00
Date of Issuance